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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.30594 of 2017

S.Murugan

...Petitioner

Vs.

1.The Government of Tamilnadu represented
by the Secretary to the Government
Revenue and Disaster Management
Personal Wing, Per 6(1) Section,
Fort.St.George, Chennai - 600 009.

2.The Principal Secretary/Commissioner of
Revenue Administration, Chepauk
Chennai - 600 005.

3.The Collector
Dharmapuri District, Dharmapuri.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in G.O.(2D).No.301, Revenue Administration and Disaster Management Department, Personnel Wing, (Per-6(1)) dated 16.10.2017 and quash the same and direct the respondents to include the petitioner's name in the Panel of Assistants for the year 2012 at the appropriate place and grant him all consequential benefits.

For Petitioner : Mr.P.Rajendran

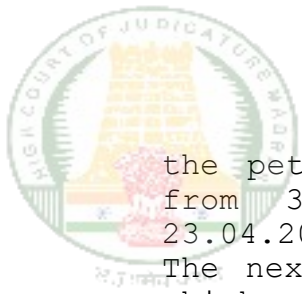
For Respondents: Mr.K.V.Sajeev Kumar

Counsel for Government

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.

2.The petitioner herein was initially appointed as a Junior Assistant on 31.07.2009 in the 3rd respondent Department on Compassionate Grounds. It is stated that the proposal for regularization of his services were sent by the 3rd respondent to the Government in the year 2010. After about three years,



the petitioner's services came to be regularized with effect from 31.07.2009, through orders of the Government dated 23.04.2013 in G.O.Ms(2-D) No.199, Revenue, (Per-9) Department. The next venue for promotion is to the post of Assistant, for which a panel was drawn during the year 2012. The crucial date for inclusion of the eligible promotees was on 15.03.2012.

3.The claim of the petitioner to include him in the 2012 panel, has now been rejected by the Government through the impugned Government Order (2D).No.301 dated 16.10.2017, on the ground that though the petitioner's services were regularized on the crucial date, the 2012 panel did not include the candidatures of his juniors and therefore, the petitioner cannot claim inclusion of his name in the 2012 panel.

4.It is not in dispute that the petitioner's services were regularized with effect from 31.07.2009 through the Government Order dated 23.04.2013 and that the delay in passing the orders, on regularization was only on administrative grounds. The only reason assigned in the impugned order for non inclusion of the petitioner's candidatures in the 2012 panel is that the petitioner's juniors were not included in the said panel and therefore the petitioner cannot claim a right for inclusion of his name.

5.The learned counsel for the petitioner would point out that during the preparation of the panel in the year 2012 for the post of Assistant, there were 19 vacancies and since only 6 Junior Assistants were qualified at that point of time, their names came to be included in the panel. In other words, the names of the Junior Assistants for the rest of the vacancies were not included, since, they did not possess the required qualification.

6.The criteria for considering inclusion of the name of a Junior Assistant in the panel would be as to whether the services of the Junior Assistant was regularized as on the date of crucial date, viz., 15.03.2012. There is no dispute with regard to the fact that the petitioner's services were regularized as on the date of crucial date of the 2012 panel. Merely because the petitioner's juniors were not included in the panel will not be an embargo or impediment on the part of the respondents to include his name or dis-entitle the petitioner for said inclusion. There is no regulation or Government Orders standing as an impediment for the authorities to consider the petitioner's name in the 2012 panel, even though his juniors names did not find place. As such, the only reason assigned by the respondents in not including the petitioner in the 2012 panel cannot be sustained. Consequently, the petitioner would be entitled to be promoted to the post of Assistant on



20.07.2012, the date on which the 2012 panel was prepared. In so far as fixing of the petitioner's seniority is concerned, the petitioner would be entitled to be placed below his immediate senior in the panel.

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7. In the light of the above observations, the impugned order dated 16.10.2017 in G.O.(2D).No.301, Revenue Administration and Disaster Management Department, Personnel Wing, (Per-6(1)) is hereby quashed. Consequently, the 1st respondent herein shall endeavour to include the petitioner's name in the 2012 panel for the post of Assistant, below his immediate senior and the 1st respondent shall endeavour to pass appropriate orders in this regard, at least within a period of eight weeks from the date of receipt of a copy of this order.

8. It is needless to point out that in view of the petitioner's inclusion in the 2012 panel for the post of Assistant, as detailed above, the petitioner would be entitled to all the service and monetary benefits arising there from.

9. The Writ Petition stands allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government
Government of Tamilnadu
Revenue and Disaster Management
Fort.St.George, Chennai - 600 009.

2. The Principal Secretary/Commissioner of
Revenue Administration, Chepauk
Chennai - 600 005.

3. The Collector
Dharmapuri District, Dharmapuri.

+1cc to M/s.P.Rajendran, Advocate SR.No. 34922

W.P.No.30594 of 2017

PCH (CO)
B.VC 18.08.2021) (01/09/2021)